WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 19.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.22 of 2006

Manipal ... Petitioner

vs.

State by:
1. Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai 600 009.

2. The Commissioner of Police,
Greater Chennai, Egmore,
Chennai-600 008. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 17.10.2005 in Memo No.493/BDFGISV/2005 against the petitioner's son Baskar, Male, aged 24 years, son of Manipal, who is confined at Central Prison, Chennai, and set aside the same, and to direct the respondents to produce him before this court and set him at liberty.

For Petitioner : Mr.C.C.Chellappan
For Respondents : Mr. M.Babu Muthu Meeran,
Addl. Public Prosecutor.

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner challenges the detention order, dated 17.10.2005, detaining his son by name Basu @ Baskar as 'Goonda' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was inordinate delay in disposal of the representation of the detenu.

The particulars furnished by the learned Additional Public Prosecutor show that the representation of the detenu was received by the Government on 21.11.2005, remarks were called for on 22.11.2005 and the same were received from the Sponsoring Authority on 28.11.2005. Thereafter, File was dealt with by the Under Secretary and Deputy Secretary on 29.11.2005. Finally, the Minister for Prohibition and Excise passed orders on 30.11.2005. However, the rejection letter was prepared only on 07.12.2005. The said letter was sent to the Central Prison for service on 08.12.2005 and served to the detenu on 09.12.2005.

4. As rightly pointed out by the learned counsel for the petitioner, though the competent authority, viz., Minister for Prohibition and Excise, passed orders on 30.11.2005, there is no reason for taking time till 07.12.2005 for preparation of the rejection letter. In the absence of proper explanation, even if we exclude the intervening holidays on Saturday and Sunday, we hold that the delay is on the higher side, which caused prejudice to the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

JI.

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

To

1. The Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai 600 009.

2. The Commissioner of Police, Greater Chennai.
Egmore, Chennai.8

3. The Superintendent, Central Prison, Chennai.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

1 cc to Mr.C.C.Chellappan, Advocate, Sr. 26098

HCP. No.22 of 2006

MAB (CO)
kk 3/7

https://hcservices.ecourts.gov.in/hcservices/